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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

LARRY DEAN RIGGS,

Plaintiff,

v.

RECONSTRUCT COMPANY, et al.,

Defendants.

2:09-CV-1821 JCM (PAL)

**ORDER**

Presently before the court is pro se plaintiff Larry Dean Riggs' application for a temporary restraining order to prevent the sale of his home at 4875 Alphonse Drive in Las Vegas, Nevada. (Doc. #21).

According to Federal Rule of Civil Procedure 65, a court may issue a temporary restraining order when the moving party provides specific facts showing that immediate and irreparable injury, loss, or damage will result before the adverse party's opposition to a motion for preliminary injunction can be heard. The Supreme Court has stated that courts must consider the following factors in determining whether to issue a temporary restraining order and preliminary injunction: (1) a likelihood of success on the merits; (2) possibility of irreparable injury if preliminary relief is not granted; (3) balance of hardships; and (4) advancement of the public interest. *Winter v. N.R.D.C.*, 129 S. Ct. 365, 374–76 (2008).

Plaintiff alleges in his application for a temporary restraining order that the defendants have attempted "to foreclose upon my property without having provided strict proof to the alleged claim as the "CREDITOR" nor as valid Holder in Due Course." (Doc. #21, p. 1). However, plaintiff has

1 failed to allege that he has or is continuing to make payments under the mortgage agreement.  
2 Therefore, the court finds that the plaintiff has not demonstrated a likelihood of success on the merits  
3 as required under Federal Rule of Civil Procedure 65 to prevent the foreclosure.

4 Accordingly,

5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's application for  
6 a temporary restraining order (doc. #21) be, and the same hereby is, DENIED without prejudice.

7 DATED this 27<sup>th</sup> day of October, 2010.

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10 UNITED STATES DISTRICT JUDGE